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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/723,694	11/28/2000	Tim Bridges	3499/67	7617

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EXAMINER

SNAPP, SANDRA S

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/723,694

Applicant(s)

BRIDGES ET AL.

Examiner

Sandra Snapp

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NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4 & 5.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

The Examiner acknowledges the Applicant's claim to priority from provisional application serial no. 60/195,909, filed 4-10-00.

Information Disclosure Statement

The information disclosure statements (IDSs) submitted on 7-7-1 and 8-22-1 were submitted in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements were considered by the examiner.

Drawings

The drawings are objected to because there is only one drawing, and as such it should not have a label. See 37 C.F.R. 1.84(u)(1). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the

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remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because it is too long, it exceeds the 150 word limit. Correction is required. See MPEP § 608.01(b).

Also, the figure description is objected to because it states, "Figs. 1 is . . ." and the term "Figs." implies plural figures, also, since there is a single figure, it should be referred to as "The figure" in the figure descriptions section of the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 is indefinite because the phrases "the first trading instrument" and "the second trading instrument" lack proper antecedent basis, since this is the first occurrence of both elements, they should not be preceded by "the."

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Claim 11 is indefinite because the phrase "FAS 133 accounting" is not defined.

When using acronyms, the first occurrence should be defined.

Claim 13 is indefinite because the phrase "the first trading instrument" lacks proper antecedent basis.

Claim 15 is indefinite because "a delta measurement" is not defined and could represent many different things.

Claims 12 and 14 are indefinite because they depend from rejected base claim 11.

Claim 16 is indefinite because the phrase "FAS 133" is not defined. When using acronyms, the first occurrence should be defined.

Claim 17 is indefinite because it depends from rejected base claim 16.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-15 are directed to non-statutory subject matter because they lack any recitation of technology in the body of the claims, which is required in order to meet the statutory requirements. The Patent Office had taken the position that some form of technology must be claimed in the body of the claim. The Board of Patent Appeals and Interferences has stated that claims lacking any technology are "nothing more than [an] abstract idea which is not tied to any technological art and is not a useful art as contemplated by the Constitution." *Ex parte*

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Bowman, 61 USPQ2d 1669, 1671 (Bd. Pat. App. & Inter. 2001) (Unpublished). While it is understood that the *Bowman* case is not precedential, it is cited herein for its content and reasoning. The Examiner suggests amending the claims to include language directed to a computer in the body of the claims.

Allowable Subject Matter

Claims 16-17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter: none of the prior art of record shows, discloses or teaches a computer system having a processor with instructions to determine a first sensitivity value, trade in an immunizing instrument having a second sensitivity value that is equal in magnitude and opposite in value to the first sensitivity value, and trade in a qualifying instrument having a third sensitivity value equal to the first sensitivity value.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Dembo, Tom, Irving et al., Melnikoff, Rebane, Sandretto, Edesess and Garman patents are all directed to various types of electronic financial risk evaluation systems. The Segal et al. patent is for an internet financial analysis system. The Makivic, Ryan et al. and Barr et al. patents are for predicative systems. The Anderson patent is for a portfolio management system. The Keiser et al. and Wallman patents are for securities portfolio management systems.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra Snapp whose telephone number is 703-305-6940.

The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SS

Sandra Snapp
SANDRA S. SNAPP
PATENT EXAMINER
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